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OFFICE OF PETITIONS

In re Application of :
Rodenbeck et al. :
Application No. 10/803434 :
Filing or 371(c) Date: 03/18/2004 : DECISION
Attorney Docket Number: STS-P024-01 : ON PETITION

This is a decision on the petition under 37 CFR § 1.181 to withdraw notice of abandonment, filed May 27, 2011.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 9, 2005, wherein no claims were allowed. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on February 14, 2006, and an Appeal Brief on May 18, 2006. The Examiner filed an Answer on August 9, 2006, wherein the Examiner allowed claims 18-26. Applicant filed a Reply Brief on October 13, 2006.

The case was set before the Board of patent Appeals and interferences (“Board”), which noted the Examiner’s allowance of claims 18-26, and stated that “only the rejection of claims 1-7, 10-16 and 27-29 is before us on appeal.” Board Decision at pp. 1-2. The Board also stated that “[i]f the Examiner remains of the position that claims 18-26 should be allowed, a ‘Reasons for Allowance’ should be included to ensure completeness of the record.” Board Decision at p.10.

The Board, however, in its conclusion, sustained the Examiner’s rejections, including claims 18-26.

The present petition

Applicant files the present petition noting the above to wit; that the Examiner allowed claims 18-26, as noted by the Board.

Analysis

A review of Office records reveals that the Board reference to the rejection of claims 18-26, is inconsistent with the totality of the Board decision. The Board removed claims 18-26 from consideration, stating that “only the rejection of claims 1-7, 10-16 and 27-29 is before us on appeal.” Id.

Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 2612 for action by the Examiner on the remaining/allowed claims.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

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